

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 30487  
Docket No. CL-30377  
94-3-92-3-139

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

(Transportation - Communications  
( International Union  
PARTIES TO DISPUTE: (  
(CSX Transportation, Inc. (former Chesapeake  
( and Ohio Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Union (GL-10666) that:

- (1) The Carrier violated Rule 57 and others of General Agreement No. 10 of 1980, when they issued Clerical Bulletin #366-B advertising position 0144-104, Freight Claims Clerk, on October 10, 1990, located at Levan Road, Livonia, Michigan, and;
- (2) That the Carrier now cancel this erroneous bulletin and re-advertise this position in the correct manner and in accordance with the provisions of the Agreement."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The pertinent facts are undisputed. On October 10, 1990, Carrier bulletined the clerical position described in the claim. The bulletin contained this statement: "Must have valid driver's license and furnish own transportation and will be reimbursed at current rate in effect." On October 18, 1990, the Organization objected to the transportation requirement stated in the bulletin as being violative of Rule 57. The Rule reads, in pertinent part, as follows:

"(B) Wherever and whenever employees are required to use automobiles, motorcycles, bicycles or other transportation in the rendition of service, they will be instructed in writing by the proper officer and the said equipment or transportation will be furnished and maintained by the Company without expense to the employees."

Carrier's position and several arguments were expressed in its Submission to this Board. For the most part, however, they represented new material that was not part of the handling of the claim on the property. We do not consider matters raised for the first time before this Board. Accordingly, Carrier's new material has been disregarded.

Carrier's defenses on the property were limited to the assertions that the decision to authorize the new position was predicated on transportation being furnished by the successful bidder, that no Carrier vehicle was available to assign to the position, that the claim was not proper under Rule 27½ because no Claimant was named and because no evidence of the alleged violation had been furnished.

Our review of Rule 27½ fails to reveal an express requirement that the naming of a specific claimant or claimants is a mandatory requirement of a proper claim. Without some specific evidentiary support for Carrier's contention in this regard, and this record contains none, this defense must be rejected. The same is true of Carrier's assertion that the claim has not been proven. The claim identified Rule 57 and the bulletin in question with pinpoint accuracy. On this record, we are at a loss to understand what additional information Carrier believes is necessary to establish the violation.

On this record, Carrier's obligations under Rule 57 are clear and unambiguous. There is no evidence that Carrier negotiated a side agreement, or similar understanding, to obtain flexibility in difficult situations. In the absence of such a special agreement with the Organization to deviate from the requirements of Rule 57, Carrier was not at liberty to violate the Rule, which we find it did in this case, by establishing different requirements.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 13th day of September 1994.